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CIVIL RIGHTS COMMISSION

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PUBLIC MEETING OF DECEMBER 12, 2008

ORIGINAL

PROCEEDINGS

in the above-captioned matter, before the Indiana Civil Rights Commission, David C. Carter/Alpha Blackburn, Chairpersons, taken before me, Lindy L. Meyer, Jr., a Notary Public in and for the State of Indiana, County of Shelby, at the Indiana Government Center South, Conference Center, Room A, 402 West Washington Street, Indianapolis, Indiana, on Friday, December 12, 2008 at 1:23 o'clock p.m.

William F. Daniels, RPR/CP CM d/b/a ACCURATE REPORTING OF INDIANA 12922 Brighton Avenue Carmel, Indiana 46032

"Morality cannot be legislated, but behavior can be regulated." – Dr. Martin Luther King, Jr

1:23 o'clock a.m. December 12, 2008

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CHAIRMAN CARTER: So, I would like to call the December meeting of the Indiana Civil Rights Commission to order, and we will do this probably out of order of the agenda since we don't have a quorum and can't vote on anything.

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We don't have to approve the financial report and Joan Essex isn't here to provide it,

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but we have two financial reports, or two months' worth, October and November. Is there anything

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else beyond the existence of the report?

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Barry, do you have any questions about them?

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> COMM. BAYNARD: No, but I'm just kind of reading the minutes.

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> CHAIRMAN CARTER: Okay. Well, we can't vote on that --

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COMM. BAYNARD: Yeah.

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COMM. CARTER: -- until we get more people here. I remember reading in the record of the -- I think it was the last meeting we had,

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Alpha saying, "Is there any old business?

1. CHAIRMAN CARTER: Yeah. HUD has 2 different rules of presentation. 3 MR. KIRKLAND: Right. Plus that's the reason why Melissa is now the intake 4 supervisor, just in time, so --5 6 COMM. BAYNARD: Well, she's well 7 organized. 8 MR. KIRKLAND: Definitely. So, I think she's a great asset, sort of like a hidden 9 10 jewel there in the organization, and you find -you know, one of the things you find when you do 11. 12 various one-on-ones, you start to find what various individuals do, and very dedicated, very 13 dedicated, very task driven, and understands it. 14 15 COMM. BAYNARD: Well, I certainly 16 appreciate the way she handled this one. 17 CHAIRMAN CARTER: Yeah. It's a 18 pleasure to be able to follow through the --19 COMM. BAYNARD: Yes. 20 CHAIRMAN CARTER: -- both the logic 21 of the --22 MR. KIRKLAND: Right. 23 CHAIRMAN CARTER: -- reasoning behind 3:00 o'clock to kind of look and see what's the new plan and how they want us to go about assessing that.

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Of course, you know, we have two funding streams, which is HUD and EEOC, so there are some mandates that are required, that we have to do, as it relates to training, as it relates to just making sure that we are where we need to be in compliance where it doesn't affect our budget. So, hopefully the outcome -- I'll have a report for you all afterwards on that meeting at our next meeting in January on where we are and some of the things that we may have to do.

Along that line, I made some personnel changes, new -- which we just talked about,
Melissa Deering, who used to work as a housing investigator is now in charge of intake. Marco Deckert, who worked in intake as supervisor, has been promoted to EEOC supervisor, and Josh, I know some of you all have met him, he's now also director of our ADR, so we can try and bring on line more mediation cases. So, those are some of the changes that we made.

MR. KIRKLAND: Exactly.

CHAIRMAN CARTER: So, they all have their own requirements, but they --

MR. KIRKLAND: Right.

CHAIRMAN CARTER: -- also have their own pots of money.

MR. KIRKLAND: But, you know, the key to survival is the more cases that are coming in, that generates more dollars for us.

CHAIRMAN CARTER: Sure.

MR. KIRKLAND: It's just simple mathematics. We rely on the public, so those cases that we can get over to EEOC and those we can get over to HUD, and I think that's the uniqueness about it.

CHAIRMAN CARTER: We seem -- I remember years ago we used to have these -- this period, this crunch period, of when we had to make the EEOC --

MR. KIRKLAND: Contract.

CHAIRMAN CARTER: -- contract, and so we had lots and lots of those cases, but that doesn't seem to have happened in the last few

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CHAIRMAN CARTER: Well --

 $$\operatorname{MR}$.$ KIRKLAND: -- we can entertain public comment.

CHAIRMAN CARTER: Yeah, we can entertain public comment if there are people who want to make a public comment. We don't usually have an audience even of three.

MS. WILLIAMS: Well, I don't know what you mean by public comment. I'm actually here because of a civil rights case appeal.

CHAIRMAN CARTER: Uh-huh.

MS. WILLIAMS: And so, I was told that I could come and listen, so is there a certain order that you go through to get to that?

CHAIRMAN CARTER: Well, right now what we're doing is we're waiting for other Commissioners, who we've been told that they're on the road --

MR. KIRKLAND: Right.

CHAIRMAN CARTER: -- and they're running late, and we -- since we don't have a quorum. We have to have four Commissioners to vote on anything. And usually what we do in the

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some glaring reason for changing the determination, then the Commissioner makes that recommendation, and again, we vote on whether to accept that recommendation or not.

MS. WILLIAMS: Oh, I see.

CHAIRMAN CARTER: But usually that recommendation is accepted. Usually the finding is accepted, or recommended to be accepted, and essentially nothing changes from the original determination, because our staff, I'm proud to say, does a very good job of investigating, for the most part.

COMM. BAYNARD: But at this stage, we would be voting on an appeals case.

CHAIRMAN CARTER: Yes.

COMM. BAYNARD: So, we would decide whether an appeal is accepted, and then -- or remand it back to the investigators, or then it would be accepted as a no probable cause or, you know -- but it happens at this stage, yes.

MS. WILLIAMS: I was also told that after it is voted on by the Commissioners, that there's really nothing else that can be done, and

goes, if the Commission upholds the no probable 1 cause finding, that would be it. 2 3 CHAIRMAN CARTER: So, taking it to a 4 civil court, for instance? It's already --5 MR. LANGE: It's happened before, and the courts have said this is not an appeal -- a 6 7 decision that can be appealed to us, so far. 8 CHAIRMAN CARTER: Okay. Oh, yes, could you identify yourself for the court 9 recorder? 10 11 MS. WILLIAMS: Yes. My name is 12 Angela Williams. 13 CHAIRMAN CARTER: Angela Williams; 14 thank you. 15 MS. WILLIAMS: I would also like to know, I did have some complaints about the way my 16 case was handled, and what do I do about those 17 complaints? 18 19 MR. KIRKLAND: Well --20 MR. LANGE: I'm sorry. 21 MR. KIRKLAND: Yeah. Well, one, you 22 definitely can talk with me about who handled 23 your case and that kind of stuff, and let me give

MR. LANGE: Okay. And if I 1 understand the agenda correctly, her case is to 2 be assigned to a Commissioner today, who will 3 then review it, not today, but sometime 4 thereafter --5 MS. WILLIAMS: It would have to be 6 7 reviewed? MR. LANGE: -- and the likely -- the 8 earliest likely vote would be at the January 9 10 meeting. MS. WILLIAMS: Okay. That makes a 11 difference, because I was told that this meeting 12 was actually postponed from November, and then --13 MR. LANGE: Yeah. 14 MS. WILLIAMS: I mean I have heard 15 that. I mean it would have already -- would be 16 the one that was being decided, so that's really 17 the reason why I was here. 18 CHAIRMAN CARTER: Well, we didn't 19 meet in November. 20 MR. LANGE: We didn't meet in 21 November, so we're -- the Commission is running a 22 month behind. 23

dig it up and dust it off, and I felt like that after that -- I mean even before that, I had to type up the initial thing that the investigators create. It just was so --

CHAIRMAN CARTER: The complaint.

MS. WILLIAMS: -- just was so -didn't have enough information, and so when I,
you know, complained that "Well, this isn't at
all what I told you on the phone," they were
like, "Well, you know, you can type up
something." I typed it up, very long -- I forget
what they called that first initial --

CHAIRMAN CARTER: Complaint form?

MS. WILLIAMS: Complaint form, yeah, complaint form. And then, you know, I took it back down there, and I put so much information in it because there was so much to know. That was too long, so they told me to keep it to two or three pages. They should have told me that to begin with.

So, I went and redid that, and I felt like once I finally got to the investigator that I was assigned to, I felt she had a very biased

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So, you know, I just felt like -- another thing I had mentioned, that I was thinking about getting an attorney, because for me, it's really more about the principle. I want something done about this because it's so bogus that I was just not going to stand for it.

And so, I felt -- you know, I came to the investigator and I was telling her that I was thinking about getting an attorney. "Oh, we have people that can advise you. We have our own attorneys. You don't really need to do that."

So, I kind of shied away from that, just to be let down, I feel.

So, I just -- I feel like I have a lot of complaints and, you know, I just feel like it wasn't handled properly. I mean the people that I complained against still aren't being held responsible because it's not even typed up right.

CHAIRMAN CARTER: It sounds to me as if a conversation with Mr. Kirkland is --

MR. KIRKLAND: Right.

CHAIRMAN CARTER: -- is in order.

MS. WILLIAMS: Okay. I just wanted

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MR. KIRKLAND: Late January.
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                MR. LANGE: Late January, the 30th of
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    January.
                MS. WILLIAMS: The 30th of January?
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    Okay. 1:30?
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                MS. SHARP: 1:00.
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                MR. LANGE: 1:00.
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                MS. WILLIAMS: At 1:00 o'clock?
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    Still in this Conference Room A?
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                MS. SHARP: Yes.
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                MS. WILLIAMS: Okay.
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              MR. LANGE: Probably.
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                 COMM. BAYNARD: Who was the
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     investigator?
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                MR. LANGE: If it's not in this
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    conference room, it will be somewhere in the
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    building.
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                 MS. WILLIAMS: Who was the
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    investigator; is that what you asked me?
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                 COMM. BAYNARD: Yes.
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                 MS. WILLIAMS: Sheila Johnson.
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                 CHAIRMAN CARTER: It is the 30th?
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                 MR. KIRKLAND: Yes, the 30th.
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between 8:00 to 6:00. I'm usually here late.
    put some long hours in, so --
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                MS. WILLIAMS: Okay.
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                 MR. KIRKLAND: -- just call.
                                              My
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    assistant's name is Paula Barnett, so --
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                 MS. WILLIAMS: Paula?
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                 MR. KIRKLAND: Paula Barnett.
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                 MS. WILLIAMS: Barnett?
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                 MR. KIRKLAND: Uh-huh.
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                 MS. WILLIAMS: Thank you all very
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    much.
                 MR. KIRKLAND: You're welcome.
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                 MS. WILLIAMS: Have a wonderful day
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    and Happy Holidays to you.
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                 CHAIRMAN CARTER: Same to you.
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                 MR. KIRKLAND: Same to you.
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            Do you have another person that --
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                 CHAIRMAN CARTER: Did you want to
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     address us? You were here last meeting, weren't
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     vou?
                 MS. MURRAY: Yes. Sandra Murray.
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                 CHAIRMAN CARTER: And I think we do
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    have your two cases. I've got to stop coming to
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MR. KIRKLAND: Uh-huh. 1 2 COMM. BAYNARD: So, yeah, it's just nice to know that things keep moving along the 3 way they should. 4 MR. KIRKLAND: Yeah, getting that 5 team back on track, that's tremendous for the 6 7 agency. CHAIRMAN CARTER: And it could be 8 that those two months were just because there 9 weren't people who --10 COMM. BAYNARD: Right. 11 CHAIRMAN CARTER: -- agreed to go 12 13 through the process. COMM. BAYNARD: Are we still using 14 law students as mediators? 15 MR. KIRKLAND: That's the plan that 16 he's trying to -- he's working on currently right 17 now, to try to get them more so involved and use 1.3 that as an opportunity. He has -- on staff with 19 him is Jonathan and Diane Graves, so Diane's been 20 doing it for quite some time. 21

CHAIRMAN CARTER: Is that something

you have to -- someone has to go to law schools

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MR. KIRKLAND: Well, there seems to be some of -- the training period for a couple individuals I've talked to, and going through training, they started to, you know, work through some of the different law schools and cities where they're located and use it as one of their tools, you know.

One of the things that EEOC has, a sort of incentive, that they give us cases that we can mediate. Those are dollars for us, so what Danny Harding over at EEOC had told me, he said, "Once you've got your ADR back up and running," he said, "I'll start, you know, trying to make sure you guys get your share of some of those cases."

CHAIRMAN CARTER: But it also seems --

 $$\operatorname{MR}.$$ LANGE: This is one of the first state agencies in the nation to do a lot of alternative dispute resolutions.

CHAIRMAN CARTER: Is this --

 $$\operatorname{MR}$.$ LANGE: The state deserves a lot of the credit for that.

CHAIRMAN CARTER: Is this sort of the

law is supposed to accomplish, of getting the 1 people who are in a position of being a 2 respondent to understand what the complaint is 3 and the person who feels aggrieved to understand 4 the respondent's position and maybe give a little 5 as well, that the respondent wasn't meaning to be 6 discriminatory, necessarily, say. It just seems 7 like so many of these cases we read come down to 8 a conflict of personalities or a --9 Miscommunication. MR. LANGE: 1.0 CHAIRMAN CARTER: -- or a 11 misunderstanding --12 MR. LANGE: Yeah. 13 CHAIRMAN CARTER: -- or a lack of 14 understanding. 15 (Ms. Blackburn arrived.) 16 MR. LANGE: One closer. 17 We're CHAIRMAN CARTER: There's one. 18 treading water. 19 MS. BLACKBURN: Sorry to keep you all 20 waiting. 21 COMM. BAYNARD: The gavel is yours. 22 CHAIRMAN CARTER: We need one --23

CHAIRPERSON BLACKBURN: -- we don't 1 have a Director. He is coming back, though, 2 isn't he? 3 COMM. CARTER: So, we did -- pretty 4 much the only -- we covered the financial report. 5 Joan isn't here either, so --6 CHAIRPERSON BLACKBURN: Okay. You 7 could not approve the minutes. 8 COMM. CARTER: Couldn't do anything 9 else. Couldn't do the minutes. 10 CHAIRPERSON BLACKBURN: We didn't 11 have any old business. 12 COMM. CARTER: Instead of the 13 minutes, we have the actual transcription of the 14 two meetings. And otherwise --15 (Mr. Kirkland returned.) 16 CHAIRPERSON BLACKBURN: There's our 1.7 Director. 18 COMM. CARTER: And we did --19 CHAIRPERSON BLACKBURN: We're in 20 business now, Mr. Kirkland. 21 MR. KIRKLAND: Are we rolling? 22 COMM. CARTER: We did the Director's 23

COMM. CARTER: Aye. 1 COMM. BAYNARD: Aye. 2 COMM. CRENSHAW: Aye. 3 CHAIRPERSON BLACKBURN: Aye. 4 Anyone opposed? 5 (No response.) 6 CHAIRPERSON BLACKBURN: Thank you. 7 I assume we have no old business, really, 8 9 or new. Consent agreements? Findings of fact? 10 COMM. BAYNARD: Yes, we have some 11 findings of fact. 12 CHAIRPERSON BLACKBURN: Yes. 13 May I have a motion to approve the findings, if 14 15 there are any? COMM. BAYNARD: Yes. 16 CHAIRPERSON BLACKBURN: You said 17 there were some. They're not in my packet. 18 MS. SHARP: We don't have any. 19 MR. LANGE: It's --20 COMM. CARTER: Killibrew. Is that 21 the only one? 22 MR. LANGE: Oh, the Director --23

Comm. Baynard. 2 COMM. BAYNARD: Yes, Madam Chair. the case of Harris versus Lake County Council and 3 the case of Ray versus Princeton Lakes 4 5 Apartments, I would recommend to the Commission that we uphold the Director's findings of no 6 7 probable cause -- Director and Deputy Director's findings of no probable cause. 8 9 CHAIRPERSON BLACKBURN: Thank you. 10 May I have a motion to accept that 11 recommendation? 12 COMM. CARTER: So moved. 13 COMM. CRENSHAW: Second. 14 CHAIRPERSON BLACKBURN: All in favor? 15 COMM. CARTER: Aye. 16 COMM. BAYNARD: Aye. 17 COMM. CRENSHAW: Aye. 18 CHAIRPERSON BLACKBURN: Aye. 19 Anyone opposed? 20 (No response.) 21 CHAIRPERSON BLACKBURN: Okay. 22 Comm. Carter, do you have a report? 23 COMM. CARTER: Yes. In the two cases

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     cause.
                 CHAIRPERSON BLACKBURN: May I have a
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    motion to accept the recommendation in all four
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     cases?
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                 COMM. CARTER: So moved.
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                 COMM. BAYNARD: Second.
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                 CHAIRPERSON BLACKBURN: All in favor?
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                 COMM. CARTER: Aye.
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                 COMM. BAYNARD: Aye.
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                 COMM. CRENSHAW: Aye.
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                 CHAIRPERSON BLACKBURN: Aye.
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            Anyone opposed?
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                       (No response.)
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                  CHAIRPERSON BLACKBURN: Okay.
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            I don't know -- do we have a report from
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     Gidney or Garcia?
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                  MS. SHARP: No, I have no report.
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                  CHAIRPERSON BLACKBURN: We have not?
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     Or Ramos?
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                  MS. SHARP: No, no report from Ramos,
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     either.
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                  CHAIRPERSON BLACKBURN: In the cases
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     that I reviewed, which are Byrd versus Community
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has a case, I think, who's here today. Okay.

Then if you wouldn't mind to give the highlights, please, of the Director's Report again.

MR. KIRKLAND: Okay. As I said previously, one of the highlights that we do have is -- I talked about the personnel changes.

Melissa Deering, who used to work in -- as HUD -- part of the HUD reface team is now the intake supervisor -- she's been promoted -- and also Marco Deckert has been promoted to the EEOC supervisor, as well as Josh Brewster is now director of ADR.

And I'm really excited about the team.

With Josh being involved with ADR, he's

definitely getting more cases resolved, and he's

also looking at the money that those cases

generate, also which assists us with our dollars

over at EEOC. It puts the mediation team back on

track, so that's -- the good news is Danny

Harding said that he'll start forwarding more

cases, which generates more dollars for the

agency.

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month -- as you know, yesterday the Governor is asking for agencies to at least look for a ten-percent reduction, of course, a freeze on all hiring, as we address the issues of this recession.

so, one of the things as a goal to try to get money, make sure that we can shore up money for the state's budget, and Tuesday, myself, along with Joan Essex, will be meeting with the Governor, along with other agency heads and finance people so that we can hear the message exactly how -- what he wants us to look like, along with Ryan Kitchel and Chris Rule. Those are the budget agency heads. They're in charge of the whole statewide budget, so this will be the plan and this is what we'll have to adhere to.

All requests of new personnel will need to be pre -- you'll have to seek prior approval, opposed to what we usually do, put it out on the job register personnel.

CHAIRPERSON BLACKBURN: Right. You have to make a case for --

else --1 MR. KIRKLAND: No, that's it. 2 CHAIRPERSON BLACKBURN: -- of a 3 business nature that we need to discuss and 4 5 report on? (No response.) 6 CHAIRPERSON BLACKBURN: If not, how 7 did the Christmas party go? I'm sorry I couldn't 8 attend. 9 MR. KIRKLAND: Oh, the Thanksgiving 10 holiday? 11 CHAIRPERSON BLACKBURN: Yes, the 12 13 Thanksqiving party. MR. KIRKLAND: It was great. It was 1.4 really nice. They had a lot of food, too much 15 food. 16 CHAIRPERSON BLACKBURN: Does that 17 mean you're going to have another party for 18 19 Christmas? MR. KIRKLAND: Well, actually they're 20 having a caroling on the 18th there in the office 21 from -- I think it's 1:30 to 2:00 -- well, no, 22 1:30 to 2:30 --

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And one of the things I want to try to continue to achieve is that I want the agency overall, everyone, to somewhat have a general idea about being happy where you are.

And with regards to that, just to remind me, I did hire Virginia Hernandez, who is working in housing, and also Tawania Pryor. Virginia Hernandez was a state employee, and she worked over in Workforce Development, and she came over with us. She's also bilingual, so that helps us with our needs with that as well, which is an added plus.

Tawania Pryor worked formerly with EEOC, after leaving and living in Florida, came back, and so she's back on board, and she really adds that extra kick for our EEOC team.

CHAIRPERSON BLACKBURN: Sounds very good.

Any other announcements?

MR. KIRKLAND: No, not from me.

CHAIRPERSON BLACKBURN: Nobody else

has any announcements?

(No response.)

MR. KIRKLAND: Uh-huh. 1 MS. MURRAY: Do they go out -- you're 2 going to send them out next week? 3 MS. SHARP: Yes, the first part of 4 I'll mail you a certified letter. next week. 5 MS. MURRAY: Okay. Thank you. 6 Thank you for CHAIRPERSON BLACKBURN: 7 8 being here. MS. MURRAY: You're welcome. 9 COMM. CARTER: Sorry you had to wait 10 so long. 11 MS. MURRAY: Oh, that's okay. 12 CHAIRPERSON BLACKBURN: That 13 concludes our meeting. You have in your packet 14 the dates through 2010. I do want to say, I 15 want -- I had to be reminded today, so I 16 apologize I was a little late, but we need a 17 quorum at our meetings, so please be aware that 18 if you have your meeting dates, bounce somebody 19 else off your schedule if you can, you know, 20 because these meetings are very important. 21 MR. KIRKLAND: Madam Chair, I want 22 -- one thing that I know that I previously 23

1 the --COMM. CRENSHAW: Probably morning 2 would be better for me, because I'll just come up 3 the night before. It'll give me a reason, 4 instead of me waking up at 5:00 --5 CHAIRPERSON BLACKBURN: Uh-huh. 6 COMM. CRENSHAW: -- 4:30 in the 7 morning to have time to stop in the office. 8 come up Thursday evening, I don't have to worry 9 about stopping in the office; I'm already here. 10 11 So, morning is --MR. LANGE: You like morning better? 12 For me. COMM. CRENSHAW: 13 MR. LANGE: Well, I think it's only 1.4 fair we wait to hear from John, too, since --15 CHAIRPERSON BLACKBURN: Okay. 16 MR. LANGE: -- he's also in a corner 17 of the state, albeit the other corner. 18 MR. KIRKLAND: Yeah, that's right. 19 CHAIRPERSON BLACKBURN: We'll look at 20 that issue and see if a better time slot wouldn't 21 ensure better attendance at our meetings, because 22

we've never had this problem --

CERTIFICATE

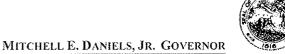
I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, December 12, 2008 in this matter and transcribed by me.

Lindy L. Meyer, Jr.,

Notary Public in and for the State of Indiana.

My Commission expires October 27, 2016.





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ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned.

Tony A. Kirkland Director

January 30, 2009

David Carter

Chair

January 30, 2009